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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 12.04.2023

+ **ITA 211/2023 & CM Nos.17402-03/2023**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr Standing
Counsel with Mr Akshat Singh, Jr
Standing Counsel.

versus

NATIONAL ACCREDITATION BOARD FOR TESTING AND
CALIBRATION LABORATORIES

..... Respondent

Through: None.

+ **ITA 212/2023 & CM Nos.17406-07/2023**

COMMISSIONER OF INCOME TAX
(EXEMPTIONS) DELHI

..... Appellant

Through: Mr Abhishek Maratha, Sr Standing
Counsel with Mr Akshat Singh, Jr
Standing Counsel.

versus

NATIONAL ACCREDITATION BOARD FOR TESTING AND
CALIBRATION LABORATORIES

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

12.04.2023

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[Physical Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

CM Nos.17402-03/2023 in ITA 211/2023

CM Nos.17406-07/2023 in ITA 212/2023 [*Applications filed on behalf of the appellant seeking condonation of delay in filing and re-filing the appeals*]

1. These are the applications moved on behalf of the appellant/revenue seeking condonation of delay in filing and re-filing the appeals.

1.1 According to the appellant/revenue, there is a delay of 37 days in filing and 205 days in re-filing the above-captioned appeals.

2. For the reasons given in the applications, the delay is condoned.

3. The applications are disposed of.

ITA 211/2023

ITA 212/2023

4. These appeals concern Assessment Year (AY) 2013-14 [ITA No.211/2023] and AY 2014-15 [ITA No.212/2023].

5. The appellant/revenue seeks to assail the order dated 24.09.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

6. The question of law which arises for consideration has been decided in the respondent/assessee’s own case for AY 2009-10 *via* decision of the coordinate bench dated 02.05.2016 passed in ITA No.284/2016.

7. The question which had arisen for consideration in AY 2009-10, as well as in the aforementioned AYs, is: whether the respondent/assessee was entitled to exemption under Sections 11 and 12 of the Income Tax Act, 1961 [in short, “Act”].

7.1 This aspect came to the fore in the context of the proviso appended to Section 2(15) which, *inter alia*, excludes what is not construed as

advancement of any other object of general public utility.

7.2 In other words, the proviso is suggestive of the fact that advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

8. A finding of the fact has been returned by the Tribunal to the effect that the respondent/assessee is not engaged in trade, commerce and business, and its dominant and prime objective is charitable in nature and, thus, the activity in which it is engaged falls within the scope and ambit of Section 2(15) of the Act.

9. As recorded in the aforementioned order dated 02.05.2016, the respondent/assessee is an important constituent of the Central Government: a facet that perhaps lends weight to the finding returned by the Tribunal.

10. Therefore, according to us, no substantial question of law arises for consideration in the above-captioned appeals.

11. The appeals are, accordingly, closed.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

APRIL 12, 2023

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[Click here to check corrigendum, if any](#)